

Translation

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 119-16.B.WO	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/CH2003/000493	International filing date (day/month/year) 22 juillet 2003 (22.07.2003)	Priority date (day/month/year) 22 août 2002 (22.08.2002)
International Patent Classification (IPC) or national classification and IPC A61N 1/04		
Applicant COMPEX MEDICAL S.A. ET AL.		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>1</u> sheets, as follows: <div style="margin-left: 20px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</div> b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <div style="margin-left: 20px;"><input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application</div>

Date of submission of the demand 17 mars 2004 (17.03.2004)	Date of completion of this report 28 September 2004 (28.09.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/CH2003/000493

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ The international application as originally filed/furnished
- ☒ the description:
- pages \_\_\_\_\_ 1-4 \_\_\_\_\_, as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- pages \_\_\_\_\_ 6-8 \_\_\_\_\_, as originally filed/furnished
- pages\* \_\_\_\_\_, as amended (together with any statement) under Article 19
- pages\* \_\_\_\_\_ 1-5 \_\_\_\_\_ received by this Authority on 31 July 2004 (31.07.2004)
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- pages \_\_\_\_\_, as originally filed/furnished
- pages\* \_\_\_\_\_ 1/2-2/2 \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims		YES
	Claims	1-4, 7-8	NO
Inventive step (IS)	Claims		YES
	Claims	5-6	NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO

## 2. Citations and explanations

1. Reference is made to the following documents cited in the international search report:

D1: WO-A-00 03760 (LE BRUSQUE) 27 January 2000.

D2: US-B1-6 418 347 (REISS HANS WILLIAM) 9 July 2002

2. The present application does not meet the requirements of PCT Article 33(1), since the subject matter of claim 1 to 4 and 7 to 8 fails to comply with the criterion of novelty as defined by PCT Article 33(2).

2.1 Claims 1, 2, 7 and 8

D1 (see in particular page 3, line 33 to page 5, line 13 and figures 4 and 5) describes (the references between parentheses apply to said document) an assembly including a biomedical electrode (7), a cable (figures 4 and 5) and snap-fitting elastic attachment means (13', 2) for attaching said electrode to said cable, wherein said attachment means consist of a male element (13') provided with an opening (15) and a female element

(2) comprising a recess (figure 5) for surrounding the male element, the inside of said recess being provided with a protuberance (21) shaped to fit into said opening (see figure 4). The male element (13') is attached to the electrode (which is in fact the article of clothing) and the female element (2) is attached to the cable (see figure 4). D1 therefore effectively relates to a means for attaching an electrode, in this instance an article of clothing, to a cable.

Moreover, D2 (see figures 1 to 4) also shows an assembly including a biomedical electrode (10), a cable (14, 16) and snap-fitting attachment means consisting of a male element (32) provided with an opening (24) and a female element (12) provided with a protuberance (17). Additionally, the male element is attached to the electrode and the female element is attached to the cable.

Consequently, the subject matter of claims 1, 2, 7 and 8 is not novel within the meaning of PCT Article 33(2).

## 2.2 Claims 3 and 4

In D1 (see figures 4 and 5), the male element includes a first substantially frusto-conically-shaped portion (the upper portion of the "mushroom head") arranged on a second substantially frusto-conically-shaped portion, inverted relative to the first portion (the lower portion of the "mushroom head"). Furthermore, the angle formed by the side wall of the first portion relative to the main vertical axis of the male element is less than the

angle formed by the side wall of the second portion relative to the main vertical axis of the male element. The subject matter of claims 3 and 4 therefore does not meet the requirements of PCT Article 33(2).

3. The present application does not meet the requirements of PCT Article 33(1), since the subject matter of claims 5 and 6 does not involve an inventive step as defined by PCT Article 33(3).

The subject matter of said claims differs from the male element known from D1 in that the first angle is between  $5^{\circ}$  and  $15^{\circ}$ , preferably substantially equal to  $8^{\circ}$ , and in that the second angle is between  $30^{\circ}$  and  $50^{\circ}$ , preferably substantially equal to  $40^{\circ}$ .

Nevertheless, a person skilled in the art seeking a satisfactory compromise to achieve simultaneously ease of attachment and effective retaining force would find these angle values by carrying out simple tests, without an inventive step being involved (PCT Article 33(3)).